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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,329	01/13/2004	Anthony A. Huscher	200208393-1	3470
22879 7590 03/06/2008 HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER NGUYEN, VAN H	
			ART UNIT 2194	PAPER NUMBER
			NOTIFICATION DATE 03/06/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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AK

<b>Office Action Summary</b>	<b>Application No.</b> 10/757,329	<b>Applicant(s)</b> HUSCHER ET AL.	
	<b>Examiner</b> VAN H. NGUYEN	<b>Art Unit</b> 2194	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. This communication is responsive to the application filed 01/13/2004.

Claims 1-20 are presented for examination. Claims 1, 10, 19, and 20 are independent claims.

Examiner requests that Applicant review the application carefully for informalities including typographical errors.

## **Drawings**

2. The drawings filed 04/23/2004 are accepted by the examiner.

## **Claim Objections**

3. Claims 4, 8, 9, 13, 17, and 18 are objected to because of the following minor informalities:

- *"the variables"* (claims 4, 13) should read *"variables"*;
- *"at least one application programs"* (claims 4, 13) should read *"at least one application program"*;

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- “*at least one editable variable*” (claims 8, 9, 18) should read “*the at least one editable variable*”; and
- “*an application program*” (claims 8, 9, 17, 18) should read “*the application program*”.

Appropriate correction is required.

### **Claim Rejections - 35 USC § 101**

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

The method claim 1 differs from traditional process claims in several respects. For example, the claim does not recite any particular way of implementing the step, nor does it require any machine or apparatus to perform the step. In addition, the method claim does not recite any electrical, chemical, or mechanical acts or results, which are typical in traditional process claims. Finally, the claim does not call for any physical transformation of an article to a different state or thing. While claim 1 performs “*providing*”, it does not require any machine or apparatus to perform the step. Because the claim is completely untethered from any sort of structure or physical step, it is directed to a disembodied

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concept. In other words, the claim is nothing but a disembodied abstract idea until it is instantiated in some physical way so as to be limited to a practical application of the idea. For example, claim 1 does not specify whether the entity performing the step of “*providing*” is a computer, a human, or something else. Accordingly, the claim is so broad that it is directed to the abstract idea itself, rather than a practical implementation of the concept. Accordingly, the claim is so broad that it is directed to the abstract idea itself, rather than a practical implementation of the concept. In addition, the claim is “so abstract and sweeping” that it would “wholly pre-empt” all applications (whether performed by a machine or a human) that are directed to the step of providing a dynamic link library. *See Benson*, 409 U.S. at 68-72, 175 USPQ at 675-677; see also *Alappat*, 33 F.3d at 1544, 31 USPQ2d at 1558 (quoting *Benson*).

For the same reasons discussed supra with respect to independent method claim 12, the method claims 2-9 fall outside the scope of § 101.

**Claims 10-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

The claims recite an “apparatus” in the preamble only, the body of the claims *merely contains software components*. Therefore, the claims are software per se and fall outside the scope of § 101.

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Claims which are broad enough to read on statutory subject matter or on non-statutory subject matter are considered non-statutory. Cf. In re Lintner, 458 F.2d 1013, 1015, 173 USPQ 560, 562 (CCPA 1972) ("Claims which are broad enough to read on obvious subject matter are unpatentable even though they also read on nonobvious subject matter.") During prosecution, applicant can amend to limit the claims to statutory subject matter.

### **Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by **Bayliss et al.**  
(US 7240059 B2).

#### **As to claim 1:**

Bayliss teaches a method of providing server enhancement, the method comprising:  
providing a dynamic link library (DLL) for communicating with a master configuration file (a master node configuration file) to permit changes to at least one editable variable

that is associated with an application program (see the dynamic link library and master node configuration file discussion: Abstract; col.3, line 26-col.4, line 16; col.7, line 54-col.8, line 46; and col.27, line 64-col.28, line 31; see also, Figs.3-7B and the associated text).

**As to claim 2:**

Bayliss teaches selecting a code line that contains a variable associated with a setting of the application program (see Figs.3-7B and the associated text).

**As to claim 3:**

Bayliss teaches replacing the variable in the code line with a new variable associated with a modified setting of the application program (see Figs.3-7B and the associated text).

**As to claim 4:**

Bayliss teaches the variables associated with editable settings, of at least one application programs, are editable in a single location (see Figs.3-7B and the associated text).

**As to claim 5:**

Bayliss teaches passing a modified variable to the application program (see Figs.3-7B and the associated text).

**As to claim 6:**

Bayliss teaches the dynamic link library is configured to permit input of data and output of information, and interface with various applications (see Figs.3-7B and the associated text).

**As to claim 7:**

Bayliss teaches one of the various applications permits an administrator to automatically manage and remove accounts from an eRoom instance (see Figs.3-7B and the associated text).

**As to claim 8:**

Bayliss teaches using a website to enter changes to at least one editable variable that is associated with an application program (see Figs.3-7B and the associated text).

**As to claim 9:**

Bayliss teaches providing different levels of access in order to permit changes to at least one editable variable that is associated with an application program (see Figs.3-7B and the associated text).

**As to claims 10-18:**

Note the rejection of claims 1-9 above. Claims 10-18 are the same as claims 1-9, except claims 10-18 are apparatus claims and claims 1-9 are method claims.



**As to claim 19:**

Note the rejection of claim 1 above. Claim 19 is the same as claim 1, except claim 19 is an apparatus claim and claim 1 is a method claim.

**As to claim 20:**

Note the rejection of claim 1 above. Claim 20 is the same as claim 1, except claim 20 is an article of manufacture claim and claim 1 is a method claim.

**Conclusion**

6. The prior art made of record, see PTO 892, and not relied upon is considered pertinent to applicant's disclosure. Applicant should review these references carefully before responding to this office action.

**Contact Information**

7. Any inquiry or a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: (571) 272-2100.

Any inquiry concerning this communication or earlier communications from the

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examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM-6:00PM. The examiner can also be reached on alternative Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM THOMSON can be reached at (571) 272-3718.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VAN H NGUYEN/  
Primary Examiner, Art Unit 2194